

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,

Plaintiff,

v.

MCTAGGART, *et al.*,

Defendants.

Case No. 1:22-cv-01421-ADA-BAM (PC)

**ORDER GRANTING PLAINTIFF’S MOTION  
FOR EXTENSION OF TIME TO CLARIFY  
INTENT REGARDING MOTION TO  
REMAND**

(ECF No. 22)

Plaintiff Barry Louis Lamon (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action was removed from Kings County Superior Court on November 3, 2022. (ECF No. 1.)

Pending in this action are Plaintiff’s motion to remand this action to state court, (ECF No. 5), and findings and recommendations to grant the motion, dismiss any purported federal claims as abandoned, and remand the remainder of this action to the Superior Court, (ECF No. 14).

Following the filing of Plaintiff’s motion for leave to file a second amended complaint and lodging of a second amended complaint, (ECF Nos. 18, 19), the Court issued an order denying Plaintiff’s motion to amend, without prejudice, striking the lodged second amended complaint, and directing Plaintiff to file a clarification of his intent. (ECF No. 20.) Specifically, Plaintiff was directed to file one of the following responses: (1) a notice of withdrawal of Plaintiff’s motion to remand, together with a renewed motion to amend and a proposed second

1 amended complaint that does not exceed twenty-five (25) pages in length; or (2) a notice that he  
2 does not wish to proceed on any federal claims in this action and a statement of non-objection to  
3 the pending findings and recommendations. (*Id.*)

4 Currently before the Court is Plaintiff's motion for extension of time to file his  
5 clarification of intent. (ECF No. 22.) Although Defendants have not yet had the opportunity to  
6 file a response, the Court finds a response unnecessary. The motion is deemed submitted. Local  
7 Rule 230(1).

8 Plaintiff states that he requires an additional thirty days to file a notice of withdrawal of  
9 his motion to remand, along with a renewed motion to file an amended complaint. (ECF No. 22.)  
10 Plaintiff states that the law librarian has been denying Plaintiff access to paging, mail order  
11 supplies, and adequate access to law library services, because Plaintiff's job conflicts with the law  
12 library's regular hours. In spite of this situation, Plaintiff assures the Court that he will be filing a  
13 notice of withdrawal of his motion to remand and a renewed motion to amend, and he will not  
14 require any further extensions of time, as he has made alternative arrangements concerning  
15 paging. (*Id.*)

16 Having reviewed the request, the Court finds good cause to grant the requested extension  
17 of time. Fed. R. Civ. P. 6(b). The Court further finds that Defendants will not be prejudiced by  
18 the brief extension granted here.

19 Plaintiff is reminded that any amended complaint must be filed in compliance with the  
20 requirements and legal standards set forth in the Court's June 28, 2023 order.

21 Based on the foregoing, IT IS HEREBY ORDERED as follows:

- 22 1. Plaintiff's motion for extension of time, (ECF No. 22), is GRANTED;
- 23 2. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file a  
24 clarification of his intent by filing **one** of the following:

- 25 a. a notice of withdrawal of Plaintiff's motion to remand, together with a renewed  
26 motion to amend and a proposed amended complaint that is **no more than twenty-**  
27 **five (25) pages in length**, excluding exhibits; **or**

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b. a notice that he does not wish to proceed on any federal claims in this action and a statement of non-objection to the pending findings and recommendations;

3. If Plaintiff chooses to file a renewed motion to amend, Defendants shall file any opposition or other response within **twenty-one (21) days** from the date the motion is docketed and Plaintiff shall file any reply within **fourteen (14) days** from the date of filing of any opposition; and

4. **If Plaintiff fails to file a response in compliance with this order, this action will be dismissed, without prejudice, for failure to prosecute and failure to comply with a court order.**

IT IS SO ORDERED.

Dated: **July 27, 2023**

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE